

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RUPERT ORTEGA,

Plaintiff,

v.

No. CV 20-1245 WJ/CG

ANDREW M. SAUL,
Commissioner of the
Social Security Administration,

Defendant.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court on review of the record. On December 1, 2020, Plaintiff Rupert Ortega filed a Complaint against Defendant Commissioner Andrew M. Saul. (Doc. 1). That same day, Mr. Ortega filed an *Application to Proceed in Forma Pauperis with Financial Affidavit Pursuant to 28 U.S.C. § 1915*, (Doc. 4), which the Court granted, (Doc. 8). On December 4, 2020, a Summons issued as to the Commissioner.

Federal Rule of Civil Procedure 4 requires a plaintiff to serve the summons on the defendant “on or after filing the complaint.” The Rule further provides that “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” FED. R. Civ. P. 4(m).

Here, more than 90 days have elapsed since Mr. Ortega filed his Complaint, and the record does not show that the Commissioner has been served. The Court finds, pursuant to FED. R. Civ. P. 4(m), that Mr. Ortega must either effect service or show good

cause why the Commissioner has not been timely served with the Summons and Complaint. Failure to comply with this Court's order will result in the recommendation that the Complaint be dismissed without prejudice.

IT IS THEREFORE ORDERED that, on or before **March 12, 2021**, Mr. Ortega shall effect service, show cause why the Commissioner has not been served, or otherwise show cause why this case should not be dismissed for want of prosecution.

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE